

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LUCIANO MOLINA RIOS,

Petitioner,

v.

JEFFREY UTTECHT,

Respondent.

CASE NO. 3:22-cv-5245-JHC-TLF

ORDER

The Court, having reviewed Petitioner Luciano Molina Rios's habeas corpus petition (Dkt. # 1), the Report and Recommendation (R&R) of the Honorable Theresa L. Fricke, United States Magistrate Judge (Dkt. # 21), Petitioner's objection to the R&R (Dkt. # 22), and the remaining record, hereby finds and ORDERS:

1. Petitioner's objection does not raise any meritorious argument justifying departure from the conclusions in the R&R. Petitioner says that his habeas petition's untimeliness is due to Judge Fricke's February 21, 2023, order granting Petitioner leave to move to amend his petition. *See* Dkt. # 14. Petitioner explains: "The Motion to amend was an idea introduced by this Court, which I did. That Motion came about because [Judge Fricke] took almost a year to file the R&R. This untimeliness by the Court [led] to what now the Court is

1 deeming as an untimely petition.” Dkt. # 22 at 1. But the R&R reasoned that the petition was
2 time-barred because it was filed on April 13, 2022, which fell outside the one-year statute of
3 limitations under 28 U.S.C. § 2244(d). Dkt. # 21 at 4–8; *see* Dkt. # 1. Any motions or orders
4 after April 13, 2022 could not affect Judge Fricke’s analysis as to whether the petition was
5 untimely. This is Petitioner’s sole argument. The Court therefore overrules Petitioner’s
6 objection. The R&R is approved and adopted in its entirety. Dkt. # 21.

7 2. Petitioner’s 28 U.S.C. § 2254 habeas corpus petition is DENIED. Dkt. # 1.

8 3. The Court will NOT issue a certificate of appealability under 28 U.S.C. §
9 2253(c)(2), for the reasons identified in the R&R.

10 4. Petitioner’s motion to amend is DENIED. Dkt. # 15.

11 The Clerk is directed to send copies of this Order to Petitioner and to Judge Fricke.

12 Dated this 16th day of June, 2023.

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14 John H. Chun
15 United States District Judge
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